HONOURABLE SRI JUSTICE D.APPARAO

On Wednesday, the twenty fourth day of May,

two thousand and six .

W.P.Nos.10394 & 10397 of 2006

W.P.No.10394 of 2006:

P. Neelima

.....Petitioner.

And:

Municipal Corporation of Hyderabad, Circle-III,MCH, Hyderabad, represented by its Commissioner.

.....Respondent.

W.P.No.10394 of 2006:

Smt. Ranga Jayalakshmi

.....Petitioner.

And:

Municipal Corporation of Hyderabad, Circle-III,MCH, Hyderabad, represented by its Commissioner.

……..Respondent.

HONOURABLE SRI JUSTICE D.APPARAO

W.P.Nos.10394 & 10397 of 2006

COMMON ORDER:

Heard. At the request of both parties, the writ petition is taken up today for final disposal.

2. The grievance of the petitioners in both the writ petitions is that the authorities of Hyderabad Municipal Corporation, straightaway issued notice under Section 636 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act'), without preceding any notice under Section 452 of the Act, which is a condition precedent for issuing notice under Section 636 of the Act.

3. The above notice shows that the same was issued in the light of the directions issued by the High Court in *suo-motu* contempt petition in C.C.No.101 of 1996 dated 28.02.1996 and W.P.No.4795 of 1996 dated 8.3.1996. Evidently, a mandatory notice shall have to be issued under Section 452 of the Act before issuing notice under Section 636 of the Act. Earlier, in W.P.No.7212 of 2006 as per order dated 13.04.2006, this Court directed the notice issued under Section 636 of the Act to be treated as issued under Section 452 of the Act, to which petitioners can submit their explanation and on submitting the explanation, the authorities can pass appropriate orders and can take further steps to implement the order passed by this Court. There cannot be any difficulty in adopting the very same procedure in this case also.

4. In the result, the respondent is directed not to demolish the structures or take away any portion of the properties of the petitioners and not to dispossess them without following due process of law under Sections 146 and 147 of the Act or private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

5. The writ petitions are accordingly disposed of. Status quo existing as on today shall be maintained till final orders are passed by the respondent. No costs.

_____

JUSTICE D. APPARAO

24th May 2006

BCS